

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Ankit Devarsh Zaykariya, Sui Juris,)	
A.K.A. Robert M. Patterson; and)	
Sasche-Tiye Zaykariya, Sui Juris)	
A.K.A. Robbin D. Patterson,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-25-316-D
)	
Freedom Mortgage Corporation, et al.,)	
)	
Defendants.)	

ORDER

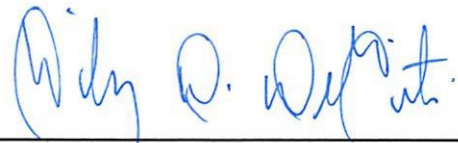
Before the Court is Plaintiffs’ Motion to Strike Defendant Mortgage Electronic Registration Systems, Inc. (MERS) [Doc. No. 15], in which Plaintiffs request that the Court strike MERS from the above-captioned matter. Although not cited by Plaintiffs, the Court construes the motion as a notice filed pursuant to FED. R. CIV. P. 41(a)(1)(A)(i), which allows a plaintiff to “dismiss an action without a court order ... before the opposing party serves either an answer or a motion for summary judgment[.]”¹ Here, at the time Plaintiffs filed their motion, MERS had not filed an answer or summary judgment motion. Accordingly, Plaintiffs’ filing is self-executing and no further action by the Court is required as to MERS. *See De Leon v. Marcos*, 659 F.3d 1276, 1283 (10th Cir. 2011) (“A

¹ “Several district courts in the Tenth Circuit, as well as the majority of circuit courts, have held that Federal Rule of [Civil] Procedure 41 may be used to dismiss all claims against one defendant without dismissing the entire action.” *Castillo v. Prater*, No. CIV-23-675-D, 2023 WL 9546946, at *13 (W.D. Okla. Dec. 8, 2023) (collecting cases), *rec. adopted*, No. CIV-23-675-D, 2024 WL 21801 (W.D. Okla. Jan. 2, 2024).

stipulation of dismissal filed under Rule 41(a)(1)(A)(i) or (ii) is self-executing and immediately strips the district court of jurisdiction over the merits.”).

IT IS THEREFORE ORDERED that Plaintiffs’ claims against Defendant Mortgage Electronic Registration Systems, Inc. are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED this 9th day of April, 2025.



TIMOTHY D. DeGIUSTI
Chief United States District Judge